

Message Text

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15

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-02 TRSE-00 OMB-01

SS-15 NSC-05 /052 W

----- 081749

R 271339Z FEB 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC 4939

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EO 11652: N/A

TAGS: EAIR, AU

SUBJ: CIVAIR: CHARTER UNDERSTANDING

REF: VIENNA 1705

FOLLOWING IS TEXT OF AMENDED MEMORANDUM OF UNDERSTANDING ON
TGCS AND ABCS AS APPROVED BY MINISTRY OF TRANSPORT AND
MINISTRY OF FOREIGN AFFAIRS. TEXT IS THAT CONTAINED VIENNA
3079 AS AMENDED BY STATE 95367 AND STATE 263485, WITH ONLY
MINOR CHANGES IN FIRST PARAGRAPH AS REQUESTED BY GOA:

DRAFT MEMORANDUM OF UNDERSTANDING

REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF
AMERICA AND THE AUSTRIAN FEDERAL GOVERNMENT HAVE DIS-
CUSSED THE CONDITIONS GOVERNING TRAVEL GROUP CHARTER (TGC)
FLIGHTS AND ADVANCE BOOKING CHARTER (ABC) FLIGHTS BETWEEN
THE UNITED STATES AND AUSTRIA, AND HAVE CONCLUDED THAT THEIR
RESPECTIVE RULES ARE SUBSTANTIALLY SIMILAR, ARE EXPERIMENTAL
IN CHARACTER, AND ARE "ADVANCE CHARTER" RULES IN THE TRANS-
ATLANTIC CONNOTATION OF THE TERM. NEVERTHELESS, AT THE
PRESENT TIME EACH RULE CONTAINS DISSIMILAR ELEMENTS RELATED
TO THE DISTINCTIVE MARKETING CONDITIONS, INTERNAL LEGAL
SITUATIONS, AND ENFORCEMENT STRUCTURES OF EACH COUNTRY.

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THEY RECOGNIZED THAT THESE DISSIMILAR ELEMENTS ARE AN OBSTACLE

TO THE CARRIAGE OF ADVANCE CHARTER TRAFFIC BETWEEN THEIR TWO COUNTRIES. THEY RECOGNIZED THAT UNIFORMITY OF RULES WOULD HAVE BEEN PREFERABLE BUT HAS NOT BEEN ACHIEVED; THEREFORE THE SOLUTION WHICH WILL BEST SERVE THE PUBLIC INTEREST IN PRESENT CIRCUMSTANCES IS THAT TRAFFIC CONFORMING WITH THE ADVANCE CHARTER RULES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHOULD BE ACCEPTED AS CHARTER-WORTHY BY THE OTHER COUNTRY. THIS MEMORANDUM SETS FORTH THE AGREED REGULATORY PROCEDURES TO GIVE EFFECT TO THIS CONCEPT AS WELL AS PARTICULAR ACTIONS EACH PARTY WILL UNDERTAKE FOR THE PERIOD ENDING DECEMBER 31, 1975. THIS MEMORANDUM MAY BE TERMINATED AT THE END OF ANY CALENDAR YEAR, PROVIDED AT LEAST THREE MONTHS' PRIOR NOTICE HAS BEEN GIVEN, OR AT SUCH A TIME AS EITHER GOVERNMENT TERMINATES OR ABANDONS THE ADVANCE CHARTER RULE, WHICH WAS THE BASIS FOR ENTERING INTO THE PRESENT AGREEMENT, IMMEDIATELY UPON NOTICE TO THE OTHER GOVERNMENT.

I. AGREED PROCEDURES FOR MUTUAL IMPLEMENTATION AND ENFORCEMENT OF ADVANCE CHARTER REGULATIONS

A. CHARTERWORTHINESS. EACH PARTY UNDERTAKES TO ACCEPT AS CHARTERWORTHY TRAFFIC (A) ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO THE ADVANCE CHARTER (TGC OR ABC) RULE 1 OF THAT PARTY AND (D) ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED. FOR THE PURPOSE OF THIS UNDERSTANDING, THE COUNTRY OF ORIGIN OF THE TRAFFIC IS TO BE DETERMINED BY REFERENCE TO A POINT IN THE TERRITORY OF EITHER PARTY (OR A POINT OUTSIDE) FROM WHICH THE GROUP OF ADVANCE CHARTER PASSENGERS DEPARTS ON THE OUTWARD PORTION OF A ROUND-TRIP (INCLUDING CIRCLE AND OPEN-JAW) JOURNEY UNDER THE TGC OR ABC RULES. EACH PARTY FURTHER UNDERTAKES TO USE ITS BEST EFFORTS TO ACCEPT AS CHARTERWORTHY CHARTER FLIGHTS OF A "SPECIAL EVENT" CHARACTER ORGANIZED IN AND FLOWN FROM THE TERRITORY OF THE OTHER PARTY.

B. ADMINISTRATION AND ENFORCEMENT. EACH PARTY RESERVES ITS RIGHT TO REQUIRE THE FILING OF CHARTER PROGRAMS ORIGINATING IN THE TERRITORY OF THE OTHER PARTY 2. TO MINIMIZE THE ADMINISTRATIVE BURDENS OF ENFORCEMENT PROCEDURES ON CARRIERS LIMITED OFFICIAL USE

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AND ORGANIZERS, AND AT THE SAME TIME TO COORDINATE ENFORCEMENT PROCEDURES, EACH PARTY:

(1) UNDERTAKES NOT TO REQUIRE THE ROUTINE FILING WITH IT OF PASSENGER LISTS AND OTHER DOCUMENTS FOR CHARTER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO THE ADVANCE CHARTER RULE OF THAT PARTY AND ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY

AND OPERATED PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED 3.

(2) UNDERTAKES THAT IS REGULATORY AUTHORITIES WILL TRANSMIT, ON REQUEST, TO THE REGULATORY AUTHORITIES OF THE OTHER PARTY, PASSENGER LISTS AND OTHER APPROPRIATE DOCUMENTS TO FACILITATE THE CONDUCT OF SPOT CHECKS OF FLIGHTS, ESPECIALLY IF ON SUCH FLIGHTS THERE IS COMMINGLING OF ABC/TGC GROUPS WITH GROUPS ORGANIZED IN ACCORDANCE WITH OTHER REGULATIONS.

(3) UNDERTAKES TO TRANSMIT TO THE REGULATORY AUTHORITIES OF THE OTHER PARTY, FOR APPROPRIATE ENFORCEMENT OF ITS RULE, EVIDENCE OBTAINED OF POSSIBLE RULE VIOLATIONS ON FLIGHTS OPERATED PURSUANT TO THE ADVANCE CHARTER RULE OF THE OTHER PARTY, RATHER THAN INTERRUPT THE FLIGHT AND CAUSE INCONVENIENCE TO OR STRANDING OF THE TRAVELING PUBLIC.

(4) INTENDS TO CONDUCT SPOT CHECKS AND TO CONDUCT OCCASIONAL POST FLIGHT REVIEWS OF ADVANCE CHARTER FLIGHTS OPERATED PURSUANT TO ITS RULE, AND TO TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE OBSERVED.

C. TARIFFS, RATES, AND FARES. TO ASSURE THAT PRICES ARE NEITHER UNREASONABLY HIGH OR LOW TAKING INTO ACCOUNT ALL RELEVANT COSTS, EACH PARTY SHALL REQUIRE THE FILING OF TARIFFS OR PRICE SCHEDULES (AS APPLICABLE) AND ENFORCE CONFORMITY TO TARIFF OR PRICE SCHEDULES ON ALL FLIGHTS OPERATED.

D. OTHER CONSIDERATIONS. TO FURTHER FACILITATE THE LIMITED OFFICIAL USE

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DEVELOPMENT OF THE INTERNATIONAL AIR TRANSPORT SYSTEM, THE REGULATORY AUTHORITIES OF EACH PARTY SHALL.

(1) STAND READY TO MODIFY THEIR ADVANCE CHARTER RULES SHOULD IT BECOME NECESSARY IN ORDER TO PREVENT UNDUE DIVERSION FROM THE SCHEDULED AIR SERVICES OF EACH BETWEEN THEIR TERRITORIES, OR TO CORRECT ANY SERIOUS EXPERIENCED ENFORCEMENT PROBLEM.

(2) CONSULT, AT THE EARLIEST PRACTICAL TIME AFTER A REQUEST TO DO SO HAS BEEN RECEIVED FROM THE OTHER PARTY, ON ANY MATTER COVERED BY ITS ADVANCE CHARTER RULES, OR CONCERNING THE REASONABLENESS OF PROGRAM SIZE, OR CHARTER TARIFFS, RATES OR FARES FOR TRAFFIC MOVING UNDER THESE RULES.

(3) WORK TOWARDS ULTIMATELY ACHIEVING COMMONALITY OF ADVANCE CHARTER RULES TO THE EXTENT POSSIBLE IN ORDER TO MINIMIZE THE NECESSARY WIELDING BY EACH PARTY OF SOME CONTROL OVER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER.

(4) ACCEPT AS CHARTERWORTHY ANY BONA FIDE "PRIOR AFFINITY" CHARTER TRAFFIC CONFORMING TO ITS RULES DURING THE PERIOD OF VALIDITY OF THIS TYPE OF CHARTER.

E. PARTICULAR ACTIONS. EACH PARTY UNDERTAKES THAT ITS REGULATORY AUTHORITIES WILL TAKE ALL APPROPRIATE ACTIONS NECESSARY TO IMPLEMENT THIS UNDERSTANDING.

FOOTNOTES

1 TGC MEANS THOSE RULES OF THE UNITED STATES EMBODIED IN PART 372A OF THE SPECIAL REGULATIONS OF THE UNITED STATES CIVIL AERONAUTICS BOARD, AND ANY AMENDMENT THERETO. ABC MEANS THOSE RULES OF AUSTRIA EMBODIED IN SUBSECTION F) OF SECTION FAL 1.3.2 OF AIP AUSTRIA WHICH ENTERED INTO EFFECT ON NOVEMBER 1, 1974, AND ANY AMENDMENTS THERETO.

2 IN THIS REGARD, AND IN ORDER TO IDENTIFY THE ORIGIN OF TRAFFIC AND TO MONITOR CHARTER PRICES, EACH PARTY MAY REQUIRE FOR EACH FLIGHT INFORMATION RELATING TO LIMITED OFFICIAL USE

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THE PROPOSED DATE, TIME AND ROUTING OF THE FLIGHT, THE IDENTITY OF THE TRAVEL ORGANIZER AND THE NUMBER OF SEATS CONTRACTED FOR AS WELL AS THE PRICES PROPOSED TO CHARGED TO AND ULTIMATELY PAID BY THE TRAVEL ORGANIZER AND THE PASSENGER.

3 BY WAY OF EXCEPTION, ALL PASSENGER LISTS AND OTHER SIMILAR DOCUMENTS REQUIRED BY THE REGULATORY AUTHORITIES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHALL BE FILED WITH THE REGULATORY AUTHORITIES OF BOTH PARTIES ON SPLIT CHARTER FLIGHTS OF TGC TRAFFIC AND ABC TRAFFIC.HUMES

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, SUPPLEMENTAL AIRLINES, AVIATION REGULATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 FEB 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975VIENNA01728
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750070-0471
From: VIENNA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975025/aaaaaevc.tel
Line Count: 213
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 VIENNA 1705
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2003 by BoyleJA>; APPROVED <19 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: CHARTER UNDERSTANDING
TAGS: EAIR, AU
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006